

EXHIBIT E

FRANK BERRY
UNITED STATES vs STATE OF GEORGIA

July 29, 2022

1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CIVIL ACTION NO.
1:16-CV-03088-ELR

STATE OF GEORGIA,

Defendant.

VIDEOTAPED DEPOSITION OF FRANK BERRY

Taken on behalf of the Plaintiff,
pursuant to Notice and agreement of counsel,
in accordance with the Federal Rules of Civil Procedure
before Richard Bursky, RMR, CRR, CRC
Certified Court Reporter
At 2 Peachtree Street, Atlanta, Georgia
On July 29, 2022, between the hours of
9:26 a.m. and 4:03 p.m.

FRANK BERRY
UNITED STATES vs STATE OF GEORGIA

July 29, 2022

164

1 Q What was the policy when you were Commissioner
2 of DBHDD?

3 A I don't know.

4 Q What was DCH's participation in APEX?

5 A I don't recall what DCH's -- I don't know that
6 DCH had a role in APEX.

7 Q So DCH was not a collaborator with APEX --
8 excuse me -- with DBHDD in APEX when you were
9 Commissioner of DCH?

10 A I don't recall. I don't recall Medicaid
11 funding APEX, which is what DCH's role would have been,
12 and I don't recall whether they were or were not.

13 Q DCH and DBHDD each have a manual, right?

14 A Yes.

15 Q And was that one of your innovations at DCH or
16 did it always have a manual?

17 A Always had a manual.

18 Q What is the purpose of the manual at DBHDD?

19 A I believe to lay out the category of services
20 and the requirements that you need to meet in order to
21 deliver those services, provider manual, if that is
22 what you are referencing.

23 Q Yes. So the provider manual described the
24 services that were reimbursable under the Georgia State
25 Medicaid program?

FRANK BERRY
UNITED STATES vs STATE OF GEORGIA

July 29, 2022
165

1 A Yes.

2 Q Is the provider manual for DCH, does it have a
3 similar purpose?

4 A Yes.

5 Q And it described the qualifications for
6 providers?

7 A Yes.

8 Q And what certifications or licenses they
9 needed?

10 A Yes.

11 Q One of the roles of DBHDD vis-a-vis the
12 Medicaid program was determining what services would be
13 provided under the Georgia State Medicaid program?

14 A Say that again.

15 Q Yes. It was the role of DBHDD in creating
16 this provider manual to make a determination of what
17 services would be provided for behavioral health?

18 A Yes, they coordinated with DCH on, here are
19 the behavioral health services that we would like to
20 have, I called it Medicaid-reimbursable, Medicaid-able,
21 if you will.

22 Q You used the term "like." The provider manual
23 actually established the requirements for which
24 services were Medicaid-able, in your language, right?

25 A Say it one more time.

FRANK BERRY
UNITED STATES vs STATE OF GEORGIA

July 29, 2022
166

1 Q Sure. The provider manual for DBHDD set forth
2 the services that DBHDD had agreed to provide under the
3 State Medicaid plan?

4 A Through its network of providers.

5 Q Yes.

6 A Yes.

7 Q And I think you just said that it collaborated
8 with DCH to some extent on that on its manual?

9 A For Medicaid-reimbursable services, yes.

10 Q And through that collaboration, it was
11 determined what Medicaid services under the Georgia
12 State plan would be reimbursable by DCH?

13 A Yes.

14 Q And there were requirements for certification
15 or licensing requirements under Georgia State law?

16 A Yes.

17 Q And that was one of your roles as
18 Commissioner, to review the manual and the services
19 offered and make sure that they were appropriate?

20 A It was the responsibility of our Medicaid team
21 to make certain of that.

22 Q Under -- reporting to you?

23 A Yes, two layers below, but, yes.

24 Q So this Medicaid team would determine, their
25 role was to determine what services were appropriate

FRANK BERRY
UNITED STATES vs STATE OF GEORGIA

July 29, 2022

184

1 Do you see that?

2 A Yes.

3 Q Did that worry you as of 2015, that GNETS was
4 the primary service provider rather than one of the
5 CSBs?

6 A I don't recall reading that in 2015. I don't
7 recall reading that, period, but that would cause me
8 concern.

9 Q Is it important that mental health services
10 are readily available to children across Georgia in
11 their own communities as an alternative to GNETS?

12 A Yes.

13 Q What role does DBHDD have in working to ensure
14 that mental health services are readily available to
15 children across the State in their own communities?

16 A A limited role, because their funding supports
17 uninsured children, so DBHDD plays a limited role, and
18 the network of providers is responsible for the
19 delivery who have contracts with the CMOs which are run
20 through DCH.

21 Q I am a little confused. Which is the State
22 agency that is responsible to ensure that mental health
23 services are readily available to children across the
24 State in their own communities?

25 A It is a combination, it is both DBHDD and DCH.